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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

American Samoa

Working paper prepared by the Secretariat

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I. General

1. American Samoa is a Non-Self-Governing Territory administered by the United States of America under the Department of the Interior, which has a representative resident on the ground.[1] The Territory is located in the South Pacific, approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands, namely, Tutuila, Aunuu, Ofu, Olosega and Ta'u (known as the Manu'a Islands) and Swains and Rose (two coral atolls), as well as several lesser islands. The total land area is approximately 200 square kilometres, about 70 per cent of which is covered by dense forest. Tutuila, the largest island, is where the capital, Pago Pago, and one of the deepest harbours of the South Pacific, are located. Tutuila Island constitutes 70 per cent of the Territory's total land area and is home to nearly 100 per cent of the population.

2. According to a federal source, in July 2009, the population of American Samoa was estimated to be 65,628, with a median age of 23.1 and an estimated sex ratio of 1.02 males per female. Approximately 40 per cent of the population was under the age of 15. The urban population made up about 92 per cent of the total population and the estimated net migration rate amounted to approximately -5.4 per thousand of the population. Approximately 91,000 American Samoans live outside the Territory in the United States of Alaska and Hawaii and in the continental United States.

3. Ethnically, the population is about 90 per cent Samoan/Polynesian. Congregationalist Protestant denominations represent the religion practised by 80 per cent of the people, and some 20 per cent are Roman Catholic. Most American Samoans are bilingual, speaking the native Samoan language and English.

II. Constitutional, legal and political issues

4. It is believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to discover these islands, in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial Powers of Germany, Great Britain and the United States led to a period of instability. Deeds ceding these islands to the United States from the early 1900s were accepted by an Act of Congress on 20 February 1929. Pursuant to that Act, American Samoans were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. As the American interest in the area had been mainly military, the Territory was placed under the jurisdiction of the United States Navy. On 29 June 1951, Executive Order 10264 of the United States President

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Note: The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Secretary's Order 2657 of 29 August 1951 and Secretary's Order 3009, as amended, of 3 November 1977, set forth the extent and nature of the authority of the Government of American Samoa and the manner in which the authority is to be exercised, available from the Electronic Library of Interior Policies, United States Department of the Interior (http://elips.doi.gov/elips/release/3421.html).

transferred administrative responsibility for the Territory to the Department of the Interior.

5. American Samoa is an "unincorporated and unorganized" Territory under United States law. Not all provisions of the United States Constitution or of United States law apply. Residents of American Samoa are not United States citizens. They are United States nationals who can freely enter the United States and work or reside anywhere they choose. Children born in the Territory to foreign parents become citizens of either the mother's or the father's country of origin, not United States nationals. American Samoans may not vote in general elections in the United States, but are permitted to participate in presidential primaries and caucuses.

6. The Constitution of American Samoa, adopted in 1960, was revised in 1967 and subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an Act of the United States Congress. In 2008, a referendum that would have revised an aspect of the Constitution was narrowly defeated.

7. The Territory's Constitution provides for separate executive and legislative branches and an independent judiciary. The executive branch comprises a Governor and a Lieutenant-Governor elected for four-year terms by universal adult suffrage. All American Samoans over 18 years of age are eligible to vote. The Governor is responsible for executing both American Samoan and United States laws and has veto power with respect to legislation passed by the Fono, the American Samoa Legislature.

8. In November 2008, Governor Togiola T. A. Tulafano was re-elected, as was Lieutenant-Governor Faoa Ipulasi A. Sunia. Their terms of office will expire in November 2012, when the next elections are due to be held. As also previously reported, in September 2007, Lieutenant-Governor Sunia was taken into custody by the United States Federal Bureau of Investigation and later released, in connection with contracts related to the Territory's Department of Education. As also previously reported, pending conclusive legal action, Mr. Sunia, who entered a "not guilty" plea in federal court in Washington, D.C., continues to serve as Lieutenant-Governor.

9. The Fono is a bicameral legislature, comprised of an 18-member Senate, whose members are chosen by 14 tribal councils, and a 21-member House of Representatives, 20 of whom are elected by popular vote and one of whom is appointed as a non-voting delegate from Swains Island. Only a "matai", the traditional chief of an extended family, or "aiga", can become a senator. Senators hold office for a four-year term and representatives for a two-year term. The Fono may pass laws with respect to all local affairs, provided they are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements.

10. Since 1981, American Samoa has elected by direct vote a delegate to the United States House of Representatives for a two-year term. The delegate may vote in committees and on the floor except on final passage. In November 2008, the delegate, Congressman Eni F. H. Faleomavaega, was re-elected for an eleventh consecutive two-year term.

11. The judiciary system consists of the High Court, for which the Chief Justice and the Associate Justices are appointed by the United States Secretary of the Interior, and the local district and village courts, for which the judges are appointed by the Governor. The High Court is separated into Appellate, Trial, Land and Titles,

and Family, Drug and Alcohol divisions. The High Court has limited federal jurisdiction for certain issues. Other matters of federal law arising in American Samoa are adjudicated in the United States district courts, mainly the federal courts in Hawaii and Washington, D.C. Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court to a federal district court. In its report of 27 June 2008, the United States federal Government Accountability Office found that there was "some legal uncertainty" about the current ability of federal judges to issue search warrants for property in American Samoa because it was outside of a federal judicial court. American Samoan laws are textually identical to United States laws ("mirror laws"), where all references to the United States are substituted by references to American Samoa.

12. As previously reported, the Future Political Status Study Commission was established in 2006 under the Territory's Public Law 29-6, amended by Public Law 29-24 and Public Law 29-25. The Commission's final report, written in both English and Samoan, was submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the High Court on 31 December 2006. Copies of the final report were made available to the public in January 2007, including on the website of the territorial Government (http://www.americansamoa.gov). The ultimate decision on status is to be made by the people of American Samoa. Additional information on the report can be found in the working paper on American Samoa presented to the Committee in 2008 (A/AC.109/2008/3).

13. As previously reported, in his inaugural address on 9 January 2009, the re-elected Governor stated that in the area of governance, the following four years would be very important. The Territory had on hand the report and recommendations of the Future Political Status Study Commission, which would be laid before a constitutional convention. According to the administering Power, on 17 March 2009, the Governor executed Executive Order No.: 004-2009 establishing a Constitutional Review Office. On 20 December 2009, the Governor signed Public Law 30-31, which provided for the budget of the American Samoa Constitutional Convention. The Convention is now scheduled to be held in June 2010.[2]

III. Budget

14. According to the administering Power, the budget of the territorial Government for the fiscal year 2010, which started on 1 October 2009, is approximately $335.9 million, as approved by the Fono. Revenues of the Government of American Samoa consist of federal support (approximately 60 per cent) and locally generated revenues (approximately 40 per cent).

IV. Economic conditions

A. General

15. According to the Governor's state of the Territory address on 11 January 2010, the year 2009 had been very challenging for American Samoa, especially in view of

[2] Information provided by the administering Power on 27 February 2010.

the Congressionally mandated minimum wage rise and the closure of an economic mainstay in the Territory for the past 50 years — the Samoa Packing cannery and the more than 2,000 jobs it had provided. Together with the other cannery, which, thus far, was still operating, it had accounted for approximately 80 per cent of all private sector employment. The full effects of the loss of Samoa Packing on the Territory's economy had not yet begun to be felt. Revenues in the last quarter of 2009 had exceeded expenditures by $1.5 million. At least in the short term, projected losses due to the closure of Samoa Packing had been offset by other economic activity, owing mostly to the infusion of federal dollars as a result of the September 2009 disaster assistance.

16. The Governor reported that the remaining tuna processing and canning company in American Samoa had expressed uncertainty as to whether it would be able to remain competitive if it continued to operate in American Samoa. The people of American Samoa had signed a petition to repeal the mandated federal minimum wage and the Governor had delivered the petition to the White House in July 2009. Currently, the Governor was actively seeking investors to purchase and operate the abandoned tuna processing and canning facilities, and the Delegate to Congress for American Samoa was crafting legislation designed to rejuvenate the tuna processing and canning operations in American Samoa. The economic stimulus bill recently signed by the President included a provision requiring the Government Accountability Office to conduct studies of minimum wage increases in American Samoa. The first report was due by 15 April 2010.

17. American Samoa's largest trading partner is the United States, followed by New Zealand, Australia and Fiji, as well as Indonesia and India. As previously reported, American Samoa imports some 90 per cent of goods and products, including food and petroleum products, machine parts, building materials, textiles and clothing.

B. Agriculture and fisheries

18. As previously reported, almost 90 per cent of all farms in the Territory operate on a subsistence basis, and prospects for agricultural development continue to be limited owing to the small amount of level land suitable for cultivation. At the same time, farmers in American Samoa benefit from assistance provided by the Natural Resources Conservation Service of the United States Department of Agriculture and its Environmental Quality Incentives Programme.

19. In June 2009, American Samoa's Secretary of Samoan Affairs explored a proposal to restart village farming systems to help ensure adequate supply of local staples and vegetables that would help to provide alternative sources of income.

20. Information on the situation with regard to the fishing industry is contained in the previous section.

C. Tourism

21. According to the administering Power, approximately 7 per cent of the economy comprises a small tourist sector industry and a few businesses that sell exclusively to the local market. As reported in the media, in the first quarter of

2009, over 17,500 travellers arrived in the Territory and four cruise ships carried an additional 9,500 passengers and crew.

22. The local media also reported that a United States firm specializing in resort development with projects all over the world had been awarded a contract to prepare an "American Samoa Tourism Master Plan". Funding for the contract of more than $400,000 came from the United States Department of the Interior's Office of Insular Affairs. The Plan will identify the economic sustainability of a resort destination in American Samoa.

D. Communications and transport

23. There are approximately 180 kilometres of public and primary paved roads and 235 kilometres of secondary village roads in American Samoa. The Federal Highway Administration Hawaii Federal-Aid Division has approved $49.3 million in Emergency Relief funds for the Territory's roads that were damaged by the earthquake and the tsunami on 29 September 2009.

24. Pago Pago harbour is an all-weather deep-draught harbour, which is one of the best natural deep-water harbours in the South Pacific Ocean, and is of strategic importance to the region. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-ton marine railway.

25. There are four airports in the Territory, situated on the islands of Tutuila, Ofu, Olosega and Ta'u, respectively. Pago Pago International Airport is owned and operated by the territorial Government. The Territory's main airport is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Within the Territory, Inter-Island Airways flies regularly to the islands of Ofu, Olosega and Ta'u.

26. According to the local media, the Territory has three FM stations and three AM stations, serving approximately 57,000 radios. One Government-owned television station broadcasts over three channels to approximately 14,000 television sets. Internet access is provided by the American Samoa Telecommunications Authority, a semi-autonomous Government agency.

E. Water, sanitation system and utilities

27. The American Samoa Power Authority, which is Government-owned, provides water, wastewater, solid-waste and electric services to customers on five of the seven islands. The Authority provides drinking water to 90 per cent of the Territory from wells, with the remaining part being serviced by outer-village systems. On a grant of $1.4 million from the United States Environmental Protection Agency, the Authority has been working since 2008 on connecting the outlying villages of Fagali'i, Malota and Fagamalo to the public water system as well.

28. In 2009, according to reports in the media, the Governor announced further possible increases in the costs in shipping, fuel and electricity resulting from the closure of a cannery.

V. Social conditions

A. General

29. Known as "fa'asamoa", the Samoan way of life is based on the notion of mutual respect and sharing among the "aiga" or extended families, each featuring a common allegiance to a matai, and influences every aspect of the Territory's socio-economic fabric. The traditional communal system prevalent in American Samoa is considered to contribute to preserving the Territory's social cohesion and promoting economic welfare.

30. As previously reported, since 2008, the Territory's legislature has been working to further strengthen the use of the Samoan language for classroom instruction in public schools, in tandem with English. In March 2009, it was reported that the local American Samoa Department of Education would receive $618,000 for its Samoan language programme for grades K-12.

B. Labour and immigration

31. Early in 2009, the local media reported that the territorial Government expected that approximately 2,000 cannery jobs would eventually disappear, along with related jobs in the private sector. In this regard, the Chamber of Commerce called for both the public and private sector to work on an expedited economic development plan. Moreover, according to the Governor's 2010 address, under the National Emergency Grant, 1,451 temporary disaster jobs had been created, serving 48 government and non-profit agencies. Upon completion of the national emergency grant aid, follow-on funding has been identified for developing this workforce. More than 900 people are working today through National Emergency Grant assistance. The territorial Government hoped to be able to employ the rest of the 1,451 people that have applied for jobs.

32. On 25 May 2007, the United States President signed into law a provision that raised the American Samoa minimum wage by 50 cents for all industry classifications (Public Law 110-28), with an automatic increase, or escalator clauses, of 50 cents per hour every year until 2014. In 2008, hourly wages for Government employees were $3.91; fisheries $4.26; shipping and transportation $5.09; retail and wholesaling, and warehousing $4.10; and tourism and travel services $4.48.

33. As previously reported, in January 2008, the United States Department of Labor released a report which showed that automatic increases would be harmful to the economy of the Territory. Subsequently, in February 2009, the United States Congress mandated the Government Accountability Office to report on the impact of past and future minimum wage increases.

34. American Samoa has its own immigration laws and entry conditions into the Territory by foreigners, which are not the same as those applicable for the United States. As previously reported, in 2003, a new Immigration Law of American Samoa came into force, giving the Attorney General, instead of a Government-appointed board, full authority over granting eligibility. That change allowed many individuals who had resided in the Territory for a long period to acquire permanent resident status. A report of the Department of Commerce indicates that in 2008 there were

approximately 38,000 immigrants in the Territory, out of a population estimated to be between approximately 64,800 and 69,000, depending on the source.

C. Education

35. Education in American Samoa is compulsory from 6 to 18 years of age. The educational system is broadly based on that of the United States. According to the American Samoan Department of Education, there are 24 early childhood education centres, 23 elementary schools, and 6 high schools in the Territory. The Department serves over 14,150 students in grades K-12, early childhood education and special education.

36. Based on media reports, in 2009 there were five school districts, each centred on a high school together with lower level elementary or "feeder schools". As previously reported, during 2008 the Department had 472 teaching personnel in elementary education, 191 teaching personnel in secondary education, 18 teaching personnel in vocational education, 202 teachers in special education, and 118 teaching personnel in early childhood education. American Samoa has a literacy rate of approximately 97 per cent.

37. The American Samoa Community College offers two-year degree courses in arts and sciences and certificate programmes of proficiency in vocational and clerical skills, business and nursing.

D. Public health

38. According to the Governor's 2010 address, in 2009, the territorial Government established Community Health Centres in the villages of Leone and Amouli. Services offered at these new centres include primary and prenatal care, well-baby clinic, family planning, oral health, nutrition education, behavioural health and Woman, Infants, and Children (WIC) services. The combined funding for these new centres is $1.3 million. In addition, the Tafuna Family Health Center received $1.2 million to fund capital construction, personnel and supplies for carrying out new functions, as well as to meet the increased demand for services.

39. According to the Central Intelligence Agency, the 2009 estimate for life expectancy in the Territory was approximately 73.72 years, 70.8 for males and 76.82 for females. Per 1,000 of the population, the annual birth rate was estimated at approximately 23.31/1,000 population, and the annual death rate at approximately 4.1/1,000 population. The fertility rate was estimated at 3.29 children per woman.

40. The main, semi-autonomous public hospital in the Territory has 150 beds and a staff of 25 physicians. Medical, dental and pharmaceutical services in the Territory are available 24 hours a day. Dispensaries have been established in Ta'u and Ofu, providing services to the Manu'a Islands. In 2009, hospitals in Honolulu stopped accepting medical referrals from American Samoa's LBJ (Lyndon Baines Johnson) Hospital until a half million United States dollar debt was paid.

41. The dengue fever prevention and eradication campaign conducted by the Territory's government helped to contain a 2009 outbreak of dengue fever which had started the previous year. According to reports in the media, to combat the H1N1 flu, the United States Department of Health and Human Services has

allocated for American Samoa close to $80,000 in grant funds for 2009 which includes approximately $50,000 for public health emergency response grants and $30,000 for hospital preparedness grants.

E. Crime and the judiciary system

42. Sexual abuse of minors is increasing every year in the Territory, with the vast majority of cases said to take place within families.[3] According to reports in the media, on 12 May 2009, the Governor announced the establishment of the Sexual Offender Registration Notification Act Working Group to ensure compliance with the requirements of the Act and to provide counsel and input into strategic planning, development and implementation of American Samoa's Sex Offender Registry. The newly established Office of Territorial and International Criminal Intelligence and Drug Enforcement is expected to facilitate cooperation in this area with the South Pacific Chiefs of Police Organization and the United States Department of Justice.

43. Information on recent development in the judicial area can be found in working paper A/AC.109/2009/4.

VI. Environmental protection and disaster preparedness

44. The American Samoa Environmental Protection Agency, funded by the United States Environmental Protection Agency, is mandated to protect human health and to safeguard the natural environment: air, water and land.

45. According to a press release issued by the Office of the Congressman, on 1 June 2009, the United States Department of Energy committed $28.8 million to American Samoa to help to build a clean energy economy through the American Recovery and Reinvestment Act of 2009 (Recovery Act), benefiting the following areas: weatherization, State Energy Program and Energy Efficiency Community Block Grants. The local media reported that American Samoa had embarked on a relationship with a private energy solutions company and the University of Hawaii Pacific Business Center Program, to pursue alternative energy, renewable energy, sustainable practices and environmentally friendly technologies, with a view to reducing dependence on carbon-based fuels.

46. According to the Governor's 2010 address, in 2009 the territorial Government continued its efforts at reducing non-point source pollutants through their Piggery Compliance Program and Lube Cube Waste Oil Collection Program. Through the piggery compliance program, it had succeeded in decreasing the number of illegal piggeries by nearly 20 per cent. As a result, American Samoa is more protected against leptospirosis, and is also decreasing harmful nutrient overloading by over 40,000 lbs. of nitrogen and 17,000 lbs. of phosphorus.

47. Through the Lube Cube Program, the Territory seeks to eliminate harmful waste oils from entering the Territory's water resources. In 2009, waste oil collection increased by 15 per cent, with a record 1,700 gallons of waste oil collected and removed from the Territory for proper disposal.

[3] *Atlantic Free Press*, 4 July 2008.

48. In terms of disaster preparedness, American Samoa has been allocated $1.85 million in federal grants from the United States Department of Homeland Security. According to reports in the media, American Samoa was awarded more than $1 million in the new United States Department of Homeland Security Federal Emergency Management Agency funding. The grant funding was to help to prevent terrorism, reduce fraud, and improve the readability and accuracy of identification documents.

VII. Relations with international organizations and partners

49. American Samoa has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988. International labour conventions and recommendations are applicable to it. The Territory belongs to various regional bodies of the United Nations system, including the World Health Organization (WHO), for which it falls under the Regional Office for the Western Pacific and the Western Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies.

50. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme, the South Pacific Applied Geoscience Commission, the Secretariat of the Pacific Community and the Council of Pacific Arts. It also belongs to United States organizations, such as the National and Western Governors' Conferences. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

51. According to the administering Power, American Samoa, along with other United States territories, requested to be allowed to interact more and to become an observer at regional political forums in the Pacific and in the Caribbean, such as the Pacific Islands Forum and the Caribbean Community (CARICOM).

VIII. Future status of the Territory

A. Position of the territorial Government

52. Section II of the present working paper reflects recent developments in American Samoa concerning its future political status.

B. Position of the administering Power

53. In a letter dated 2 November 2006 addressed to Congressman Faleomavaega, the United States Assistant Secretary of State for Legislative Affairs set forth the position of the Government of the United States on the status of American Samoa and other United States Insular Areas, which was considered equally valid for 2009. In his letter, the Assistant Secretary indicated that the status of the Insular Areas

regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee. The letter also noted that the Special Committee had no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. The letter further stated that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions, the federal Government did submit annual updates on United States Territories to the Special Committee as a demonstration of United States cooperation as an administering Power and to correct any errors in information that the Special Committee might have received from other sources.

C. Action by the General Assembly

54. On 10 December 2009, the General Assembly adopted, without a vote, resolutions 64/104 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/64/23) and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee) (A/64/413). Section I of resolution 64/104 B concerns American Samoa. Under that section's operative paragraphs, the General Assembly welcomed the work of the territorial Government and legislature with regard to the recommendations made by the Future Political Status Study Commission, in preparation for a constitutional convention some time in 2009, addressing issues related to the future status of American Samoa and called upon the administering Power to assist the Territory by facilitating its work concerning the intention of holding a constitutional convention sometime in 2009, if requested. The Assembly stressed the importance of the invitation previously extended to the Special Committee by the Governor of American Samoa to send a visiting mission to the Territory, called upon the administering Power to facilitate such a mission if the territorial Government so desired, and requested the Chairperson of the Special Committee to take all the necessary steps to that end. The General Assembly requested the administering Power to assist the Territory by facilitating its work concerning a public awareness programme recommended by the Future Political Status Study Commission in its 2007 report, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, called upon the relevant United Nations organizations to provide assistance to the Territory, if requested. The Assembly welcomed the efforts made by the territorial Government to address employment and cost-of-living issues in various economic sectors.